

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION**

JANICE HARGROVE WARREN

PLAINTIFF

v.

Case No. 4:19-cv-00655-BSM

MIKE KEMP, et al.

DEFENDANTS

**PLAINTIFF’S BRIEF IN SUPPORT OF HER UNOPPOSED MOTION FOR AN ORDER
MODIFYING SUBPOENAS COMMANDING WITNESSES TO APPEAR FOR TRIAL**

BACKGROUND

This matter is an employment discrimination, Title VII, 42 U.S.C. §§ 1981 and 1983, and breach of contract case brought by Dr. Janice Warren (“Dr. Warren”), Assistant Superintendent for Equity and Pupil Services (“Asst. Sup. Equity”) and former Interim Superintendent, against her employer Pulaski County Special School District (“PCSSD”). This Court has subject matter jurisdiction over this cause of action under 28 U.S.C. § 1331 because it is a civil action arising under the laws of the United States, specifically 42 U.S.C. §§ 1981, 1983, 2000e-2(a)(1), 2000e-2(a)(2), 2000e-3(a), and 2000e-5(f)(1). Furthermore, this Court has Supplemental Jurisdiction over Dr. Warren's State law claim against PCSSD pursuant to 28 U.S.C. § 1367(a).

This Court scheduled the trial of this matter before a jury for the week of September 20, 2021. On September 15, 2021, this Court continued the trial. Thereafter, trial was set for the week of January 3, 2022. In preparation for her trial, plaintiff served sixteen witnesses with subpoenas pursuant to Fed. R. Civ. Pro. 45; 9A Fed. Prac. & Proc. Civ. § 2461 (3d ed. April 2021) (a party may command the attendance of a witness for any reason). Each subpoena complied with the requirements of Fed. R. Civ. Pro. 45 (a)(1) and commanded the person to whom it was directed to appear on a specified date and time during the week of September 20,

2021. Fed. R. Civ. Pro. 45 (a)(1)(A)(iii); 9A Fed. Prac. & Proc. Civ. § 2455 (3d ed. April 2021). The cost for service of each subpoena ranged from \$60 to \$75. After the plaintiff's timely motion to modify, the district court order the subpoenas to be modified to avoid an undue burden on the plaintiff. See, generally, Fed. R. Civ. Pro. 45 (d)(3)(iv); see also *Mullins v. U.S. Bank*, No. 2:05-CV-1002, 2006 WL 8445564, at *3 (S.D. Ohio Dec. 14, 2006) (waste of resources a factor for the court's denial of the plaintiff's request that defendants withdraw and refile their *subpoenas duces tecum* that were served without notice to the plaintiff, who had the opportunity to brief her objections in her motion to quash). Excluding Dr. Charles McNulty,¹ each witness received a telephonic, text, voice mail notice of the rescheduled trial and were informed that written notice of the specific day and time would be provided.

Once again, plaintiff seeks a modification of the previously issued subpoenas including one served on Dr. Linda Remele on October 20, 2021. Reissue and service of these subpoenas would impose an undue burden on the plaintiff and increase her costs in obtaining the appearance of her witnesses. Plaintiff respectfully requests this Court to extend the command of her subpoenas by ordering the witnesses' appearance during the week of February 14, 2022. The plaintiff will notify her subpoenaed witnesses that their attendance during the week of January 3, 2022, is excused, and their attendance for the week of February 14, 2022, is commanded. A copy of the plaintiff's draft letter is attached as Exhibit 1.

CONCLUSION

To facilitate the orderly and expeditious processes of the trial of this matter, the plaintiff exercised diligence to serve her witnesses with subpoenas in advance of trial. Therefore, plaintiff

¹ Plaintiff's counsel believed that notice by defense counsel of the modified date was the best source of notice to the defendant-PCSSD's CEO.

requests this Court to extend the command of the plaintiff's subpoenas consistent with the Court's continuance of the trial date in this case to February 14, 2022.

Respectfully submitted this 3rd day of December, 2021,

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